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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,065	09/08/2005	Mark Beckmann	071308.0973 (2002P11739WO)	7574
31625	7590	09/19/2008	EXAMINER	
BAKER BOTTS L.L.P. PATENT DEPARTMENT 98 SAN JACINTO BLVD., SUITE 1500 AUSTIN, TX 78701-4039			ZEWARI, SAYED T	
			ART UNIT	PAPER NUMBER
			2617	
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			09/19/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/523,065	<b>Applicant(s)</b> BECKMANN ET AL.	
	<b>Examiner</b> SAYED T. ZEWARI	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 14-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 14-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's arguments filed on 6/04/2008 have been fully considered but they are not persuasive.
2. Applicant's claims are still very broad and are not amended in such away to make them allowable. Applicant discloses a system wherein the transmission of services is announced. This limitation, as was previously pointed out, is also disclosed by Lim. Lim discloses a system where the form of transmitted data is announced ahead of time. Applicant argues that Lim discloses transmission of announcement and data packet together. This argument is not persuasive. The core essence of applicant's invention is announcement of form of data a head of time. This limitation is disclosed by Lim. The transmission of announcement and actual data packets separately doe not really constitute innovation. Applicant is referred to section [0019] lines 11-14 where only the targeted receiver receives and process data packets by referring to the header information. This header information arrives before data and announces the types of arriving packet data. Applicant is further referred to section [0021] lines 4-8 and section [0022] lines 10-13 where such a header with such function is disclosed.
3. Further, applications are examined on the merit of the claims and not the specification. So the applicant needs to write the claims precisely and completely in such a way to reflect the applicant's innovative parts of the invention.
4. Therefore, Lim and Holden disclose all the limitations of the claims of the applicant as they are written now.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 14, 15, 19-21, 23, 25, 28, and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Lim (US 2002/0,057,663).

With respect to claim 14, Lim discloses a method for transmitting user data messages from a network element of a radio communication system over at least one transmission channel to at least one subscriber device of the radio communication system (**See Lim's abstract figure 3, section [0034]-[0037]**), the method comprising announcing a form of the user data messages via planning information before transmission of the user data messages (**See Lim's section [0019], [0020], [0021], [0022]**), wherein the form of the user data messages to be transmitted includes at least one of the data type and a coding of the user data message (**See Lim's section [0019], [0020], [0021], [0022]**).

With respect to claim 28, Lim discloses a subscriber device of a radio communication system, in which user data messages are transmitted over at least one transmission channel to the subscriber device (**See Lim's abstract figure 3, section**

**[0034]-[0037]**), comprising parts for receiving only the user data messages which, with regard to an announced form, it is able to process, wherein the form of the user data message is announced by planning information before transmission of the user data messages **(See Lim's section [0019], [0020], [0021], [0022])**, with the form of the user data messages to be transmitted including at least one of a data type and a coding of the user data messages **(See Lim's section [0019], [0020], [0021], [0022])**.

With respect to claim 29, Lim discloses a radio communication system **(See Lim's abstract figure 3, section [0034]-[0037])**, comprising: At least one subscriber device **(See Lim's abstract figure 3, section [0034]-[0037])**; and A network element for transmitting user data message over at least one transmission channel to the at least one subscriber device **(See Lim's abstract figure 3, section [0034]-[0037])**, wherein a form of the user data messages is announced by planning information before transmission of the user data messages, with the form of the user data messages to be transmitted including at least one of the a data type and a coding of the user data messages **(See Lim's section [0019], [0020], [0021], [0022])**.

With respect to claim 15, Lim discloses a method for transmitting a user data messages wherein the planning information includes a first planning message by which the transmission of the user data messages is announced via a first separate transmission channel **(See Lim's section [0010], furthermore the use a first channel for channel setup is in common usage)**, and a second planning message by which description information specifying the form of the user data messages to be transmitted is transmitted via at least one second separate transmission channel **(See Lim's**

**section [0010], furthermore the use a second channel for transmission is in common usage).**

With respect to claim 19, Lim discloses a method for transmitting a user data messages wherein the method is carried out in a framework of a broadcast service **(See Lim's section [0017]- [0019]).**

With respect to claim 20, Lim discloses a method for transmitting a user data messages wherein the broadcast service is an extension of a Cell Broadcast Service **(See Lim's section [0017]- [0019]).**

With respect to claim 21, Lim discloses a method for transmitting a user data messages wherein the broadcast service is a multicast service **(See Lim's section [0017]- [0019]).**

With respect to claim 23, Lim discloses a method for transmitting a user data messages wherein the first planning message contains information about when and on which second separate transmission channel of which there is at least one, at least one of second planning messages and user data messages are transmitted **(See Lim's section [0010], furthermore the use a first channel for channel setup is in common usage).**

With respect to claim 25, Lim discloses a method for transmitting a user data messages wherein the subscriber device is a mobile radio device **(See Lim's section [0016], [0017], [0019], and [0026]).**

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 16-18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lim (US 2002/0,057,663) in view of Holden (US 6,771,639).

With respect to claim 16, Lim discloses a method and system for transmitting a user data messages. However Lim does not specifically disclose that these data types includes one of a text format, an image format, an audio format and a video format (**See Holden's col.4 lines 17-32, 41-42, col.5 lines 6-34**). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Lim and combine it with that of Holden, thereby providing a system that announces the above mentioned information types, as disclosed by Holden (**See Holden's col.4 lines 17-32, 41-42, col.5 lines 6-34**).

With respect to claim 17, Lim discloses a method for transmitting a user data messages. However, Lim does not specifically discloses that the data type includes one of an MP3 format, an AMR format, a WAV format, a JPEG format and an MPEG 4 format (**See Holden's col.7 lines 11-24, col.9 lines 36-42, see additional information: col.6 lines 5-31**). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Lim

and combine it with that of Holden, thereby providing a system that announces the above mentioned information types, as disclosed by Holden **(See Holden's col.7 lines 11-24, col.9 lines 36-42, see additional information: col.6 lines 5-31).**

With respect to claim 18, Lim discloses a method for transmitting a user data messages. However, Lim does not specifically discloses a method wherein the description information further includes parameters referring to one of data volume, image dimensions for at least one of image data and video data, and a playback duration for at least one of audio data and video data. But Holden discloses these limitations **(See Holden's col.7 lines 11-24, col.9 lines 36-42, see additional information: col.6 lines 5-31).** Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of Lim and combine it with that of Holden, thereby providing a system that announces the above mentioned information, as disclosed by Holden **(See Holden's col.2 lines 15-41).**

With respect to claims 30 and 31, the above combination of references applied, disclose all the limitations of the claim 30 and 31.

9. Claims 22, 24, 26, and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lim (US 2002/0,057,663) in view of well-known prior art (MPEP 2144.03).



With respect to claim 22, Lim discloses a method for transmitting a user data messages. Lim does not specifically disclose the method is operated in accordance with a UMTS Standard. However, an official notice is taken that the concept and use of transmitting a user data messages are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to implement the method disclosed by Lim in a UMTS system.

With respect to claim 24, Lim discloses a method for transmitting a user data messages. Lim does not specifically disclose the subscriber device receives only data which the at least one subscriber device is designed to process. However, an official notice is taken that the concept and use of transmitting a user data messages to subscriber devices capable of processing that data are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to transmit only data messages that a subscriber device is capable of processing.

With respect to claim 26, Lim discloses a method for transmitting a user data messages. Lim does not specifically disclose a mobile phone. However, an official notice is taken that the concept and use of transmitting a user data messages using a mobile phone are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to implement the method disclosed by Lim in a mobile phone.

With respect to claim 27, Lim discloses a method for transmitting a user data messages. Lime does not specifically disclose the subscriber device receives only the user data messages it is able to process. However, an official notice is taken that the

concept and use of transmitting a user data messages to subscriber devices capable of processing that data are well known and expected in the art. Therefore, it would be obvious to one of ordinary skill in the art to transmit only data messages that a subscriber device is capable of processing.

### ***Conclusion***

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sayed T. Zewari whose telephone number is 571-272-6851. The examiner can normally be reached on 8:30-4:30.

11. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester G. Kincaid can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Sayed T Zewari/  
Examiner, Art Unit 2617  
September 15, 2008

/Lester Kincaid/  
Supervisory Patent Examiner, Art Unit 2617